

MONTANA LEGISLATIVE HISTORY

Chapter 421 19 81

Bill H 321 S _____ Original bill & history 1 c

H. Committee on Bus + Ind

Hearing Date(s) 2/4 x C

2/5 x C

_____ C

_____ C

Date Out _____ C

S. Committee on Bus + Ind

Hearing Date(s) 3/14 x C

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Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

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420		815	An act to provide procedures and guidelines for terminating the legal relationship between parent and child.Page 730
421		840	An act to establish employee compensation plans and benefit levels, revise the classification appeals procedures, and provide pay schedules for fiscal years 1982 and 1983; appropriating funds therefor; appropriating funds for a personnel and labor relations study; amending sections 2-18-101, 2-18-203, 2-18-301, 2-18-303, 2-18-311 through 2-18-315, and 2-18-701 through 2-18-703, MCA; and providing effective dates.Page 733
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435	96		An act to provide funds for special improvement district revolving funds by allowing 5 percent of the improvement cost to be an initial incidental expense to be deposited in the revolving fund; amending sections 7-12-4169, 7-12-4222, and 7-12-4227, MCA.Page 771
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House Page No. 101, 620, 635, **734**, 779, **858**, 1177.

Senate Page No. 622, 676, **818**.

- 321 Introduced by Fabrega, Goodover, Meyer, Menahan: A bill for an act entitled: "An act revising the Montana Consumer Loan Act by providing for the adjustment of certain dollar amounts in the act in accordance with changes in the consumer price index; increasing certain charges, including certain fees to be paid to third parties in the principal amount of the loan; providing for the utilization of the disclosures required by the Federal Consumer Credit Protection Act; and providing for attorney fees in legal actions; amending sections 32-5-102, 32-5-103, 32-5-201, 32-5-301 through 32-5-303, 32-5-306, and 32-5-402, MCA."

House Page No. 101, 371, 411, 433, **439**, 442, **495**, 1253, **1717**, **1762**, 1831, 1867, 1898, 2059.

Senate Page No. 324, 344, 837, **899**, **918**, **954**, 1430, 1483.

- 322 Introduced by Meyer, (By Request of the Department of Highways): A bill for an act entitled: "An act to permit the apportionment of highway funds based on the amount available for obligation and to change the date when information concerning allocations must be furnished to the county commissioners; amending sections 60-3-204, 60-3-206, 60-3-207, 60-3-208, 60-3-210, 60-3-211, 60-3-214, 60-3-225, and 60-3-234, MCA."

House Page No. 101, 276, 285, 308, **329**, 622, 682, 831, 954.

Senate Page No. 197, 198, 305, **353**, **398**, 499.

- 323 Introduced by Huennekens, Dozier, Harrington, Daily, Pavlovich: A bill for an act entitled: "An act to further limit the number of nonresident big game combination licenses sold in a license year; amending section 87-2-505, MCA."

House Page No. 101, **500**.

- 324 Introduced by Burnett, McLane, Roth: A bill for an act entitled: "An act amending section 85-2-306, MCA, to except from the water appropriation permit process the requirement for application for a permit prior to constructing an impoundment or pit and appropriating water for use by livestock regardless of the size of the impoundment if the source of water is other than a perennial flowing stream."

House Page No. 101, 417, 429, **456**, 469, **524**, 1142, **1203**, **1237**, 1273, 1287, 1327, 1352.

Senate Page No. 347, 695, **721**, 741, **764**, **765**, **800**, 1044.

- 325 Introduced by Dozier: A bill for an act entitled: "An act to increase the amount of motor vehicle license fee collections paid into the city road fund; amending section 7-14-2512, MCA."

House Page No. 101, **293**.

INTRODUCED: 1/19
REFERRED TO COMMITTEE ON JUDICIARY: 1/19
REPORT: DO PASS, 1/29
2ND READING: 2/2, YEAS: 65; NAYS: 28
3RD READING: 2/4, YEAS: 70; NAYS: 24

TRANSMITTED TO SENATE: 2/4
REFERRED TO COMMITTEE ON JUDICIARY: 2/5
HEARING: 3/6
REPORT: 3/16, ADVERSE REPORT ADOPTED
YEAS: 44; NAYS: 3
BILL KILLED IN COMMITTEE

HB 318—VINCENT—TO PROHIBIT UTILITY RATE INCREASES DURING A BUDGET PERIOD OF A STATE OR LOCAL GOVERNMENT AGENCY OR SCHOOL DISTRICT WITHOUT ADVANCE NOTICE.

FISCAL NOTE: REQUIRED
INTRODUCED: 1/19
REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 1/19
HEARING: 2/5
BILL DIED IN COMMITTEE

HB 319—VINCENT, GOULD, DUSSAULT—TO PROVIDE FOR SERVICES TO CERTIFIABLY HANDICAPPED STUDENTS ENROLLED IN UNITS OF THE UNIVERSITY SYSTEM AND TO APPROPRIATE FUNDS FOR THIS PROGRAM.

FISCAL NOTE: REQUIRED
INTRODUCED: 1/19
REFERRED TO COMMITTEE ON APPROPRIATIONS: 1/19
HEARING: 3/24
BILL DIED IN COMMITTEE

HB 320—KROPP—TO AUTHORIZE THE DEPARTMENT OF HIGHWAYS TO ADOPT RULES IMPLEMENTING TITLE 61, CHAPTER 10, MCA, RELATING TO SIZE, WEIGHT, AND LOAD PROVISIONS.

INTRODUCED: 1/19
REFERRED TO COMMITTEE ON HIGHWAYS: 1/19
HEARING: 1/27
REPORT: DO PASS, 2/17
2ND READING: 2/21, YEAS: 85; NAYS: 0
3RD READING: 2/24, YEAS: 95; NAYS: 2
TRANSMITTED TO SENATE: 2/24
REFERRED TO COMMITTEE ON HIGHWAYS: 3/2
HEARING: 3/12
REPORT: 3/14, ADVERSE REPORT ADOPTED
YEAS: 45; NAYS: 1
BILL KILLED IN COMMITTEE

HB 321—FAEREGA, GOODOVER, MEYER, ET AL—REVISING THE MONTANA CONSUMER LOAN ACT BY PROVIDING FOR THE ADJUSTMENT OF CERTAIN DOLLAR AMOUNTS IN THE ACT IN ACCORDANCE WITH CHANGES IN THE CONSUMER PRICE INDEX....

INTRODUCED: 1/19
REFERRED TO COMMITTEE ON BUSINESS AND INDUSTRY: 1/19
HEARING: 2/4
REPORT: DO PASS AS AMENDED, 2/5
2ND READING: 2/10, YEAS: 64; NAYS: 16
3RD READING: 2/12, YEAS: 88; NAYS: 10

TRANSMITTED TO SENATE: 2/12
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 2/13

HOUSE BILL NO. 321

MARCH INTRODUCED BY FABREGA, GOODOVER, MEYER, MENAHAN

April IN THE HOUSE

January 19, 1981
April

Introduced and referred to
Committee on Business and
Industry.

February 6, 1981

Committee recommend bill
do pass as amended.
Report adopted.

February 9, 1981

Bill printed and placed on
members' desks.

February 10, 1981

Second reading, do pass.

February 11, 1981

Correctly engrossed.

February 12, 1981

Third reading, passed.
Ayes, 88; Noes, 10.
Transmitted to Senate.

IN THE SENATE

February 13, 1981

Introduced and referred to
Committee on Business and
Industry.

March 16, 1981

Committee recommend bill
be concurred in with statement
of intent. Report adopted.

March 17, 1981

Motion pass consideration.

March 18, 1981

Second reading, concurred in.

March 20, 1981

Third reading, concurred in.
Ayes, 37; Noes, 11.

IN THE HOUSE

March 21, 1981

Returned from Senate with
statement of intent attached.

April 8, 1981

Second reading, amendments
concurred in.

April 9, 1981

Third reading, amendments
concurred in. Ayes, 94; Noes, 0.
Sent to enrolling.

Reported correctly enrolled.

HOUSE BILL NO. **321**

INTRODUCED BY

Robert Meyer Menahan

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA CONSUMER LOAN ACT BY PROVIDING FOR THE ADJUSTMENT OF CERTAIN DOLLAR AMOUNTS IN THE ACT IN ACCORDANCE WITH CHANGES IN THE CONSUMER PRICE INDEX; INCREASING CERTAIN CHARGES, INCLUDING CERTAIN FEES TO BE PAID TO THIRD PARTIES IN THE PRINCIPAL AMOUNT OF THE LOAN; PROVIDING FOR THE UTILIZATION OF THE DISCLOSURES REQUIRED BY THE FEDERAL CONSUMER CREDIT PROTECTION ACT; AND PROVIDING FOR ATTORNEY FEES IN LEGAL ACTIONS; AMENDING SECTIONS 32-5-102, 32-5-103, 32-5-201, 32-5-301 THROUGH 32-5-303, 32-5-306, AND 32-5-402, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 32-5-102, MCA, is amended to read:

"32-5-102. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) "Person" means individuals, partnerships, associations, corporations, and all legal entities in the loaning business.

(2) "License" means one or both of the licenses provided for by this chapter.

(3) "Licensee" means the person holding a license.

(4) "Department" means the department of business

regulation provided for in Title 2, chapter 15, part 18.

(5) "Consumer type loan business" means the business of making loans of \$25,000 or less, which amount is subject to change pursuant to the provisions of [section 9], generally repayable in substantially equal installments."

Section 2. Section 32-5-103, MCA, is amended to read:

"32-5-103. Engaging in business of making loans restricted. (1) No person shall engage in the business of making loans or advances of money on credit in amounts of \$25,000 or less and contract for, charge, or receive directly or indirectly on or in connection with any such loan or advance any charges, whether for interest, compensation, consideration, or expense, which in the aggregate are greater than those provided by 31-1-107(1), except as provided in and authorized by this chapter. A person doing business under the authority of this state or the United States relating to banks, trust companies, savings or building and loan associations, credit unions, or a person engaged in business as a licensed pawnbroker or any person who shall extend credit in connection with the sale of a commodity shall not become a licensee under this chapter nor shall any of the provisions of this chapter apply to any such exempted person.

(2) The provisions of subsection (1) shall apply to any person who seeks to evade its applications by any

-2- INTRODUCED BILL

HB 321

1 device, subterfuge, or pretense whatsoever.

2 (3) Any contract of loan in the making or collection
3 of which any act shall have been done which violates
4 subsection (1) of this section shall be void, and the lender
5 shall have no right to collect, receive, or retain any
6 principal, interest, or charges whatsoever.

7 (4) The amount of \$25,000 in subsection (1) is subject
8 to change pursuant to the provisions of [section 9] on
9 adjustment of dollar amounts."

10 Section 3. Section 32-5-201, MCA, is amended to read:

11 "32-5-201. License application and fees --
12 supplementary license. (1) (a) A place of business operated
13 under this chapter shall properly display on the premises a
14 nontransferable and nonassignable license. The same person
15 may obtain additional licenses upon compliance with this
16 chapter as to each license.

17 (b) Application for a license shall be on a form
18 prescribed and furnished by the department.

19 (c) A licensee may move his place of business from one
20 place to another within a county without obtaining a new
21 license, provided he obtains written permission from the
22 department.

23 (d) With each application the applicant shall submit
24 \$50 as an investigation fee and \$125 as a license fee. The
25 license fee shall be returned to the applicant if the

1 application is denied. The license year is the calendar
2 year, and the license fee for any period less than 6 months
3 is \$62.50. A license remains in force until surrendered,
4 suspended, or revoked.

5 (2) No licensee under the provisions of this chapter
6 shall lend money in a total sum greater than \$1,000 to any
7 borrower or to any borrower and spouse except under the
8 following circumstances:

9 (a) When any person holding a license provided for in
10 subsection (1) desires to make loans for any amount in
11 excess of \$1,000 but not exceeding \$25,000, the holder of
12 such license may apply to the department for a supplementary
13 license and pay therefor an additional license fee of \$75
14 per calendar year or one-half of said sum for any period
15 less than 6 months.

16 (b) The department shall grant, on application, a
17 supplementary license to a holder of a license provided for
18 in subsection (1).

19 (c) Section 32-5-204 shall be applicable as to time of
20 payment of supplementary license fee and penalty for failure
21 to pay the same.

22 (d) Provisions of 32-5-301 relating to refunds, fees,
23 and charges and the other provisions of this chapter not
24 inconsistent with this section shall be applicable to loans
25 made under authority of a supplementary license.

(3) All moneys collected under the authority of this chapter shall be paid into the state treasury by the department.

~~(4) The amounts of \$1,000 and \$25,000 in subsection (2) are subject to change pursuant to the provisions of [section 9].~~

Section 4. Section 32-5-301, MCA, is amended to read:

"32-5-301. Charges, refunds, penalties, filing fees.

(1) Every licensee hereunder may contract for and receive on any loan of money not exceeding \$1,000 in principal amount:

(a) charges at rates not in excess of \$20 per year per \$100 on that part of the principal amount of the loan not exceeding ~~\$300~~ \$500;

(b) \$16 per year per \$100 on that part of the principal amount of the loan exceeding ~~\$300~~ \$500 but not exceeding ~~\$500~~ and \$1,000.

~~(c) \$12 per year per \$100 on that part of the principal amount of the loan in excess of \$500 but not exceeding \$1,000.~~

(2) The holder of a supplementary license may contract for and receive charges at rates authorized for licensees in subsection (1) for the first \$1,000 of the principal amount of any loan and may contract for and receive charges at rates not in excess of ~~\$10~~ \$12 per year per \$100 on that part of the principal amount of any loan exceeding \$1,000

but not exceeding \$7,500.

(3) Charges in (1) and (2) shall be computed at the applicable rates on the full, original principal amount of the loan from the date of the loan to the due date of the final scheduled installment irrespective of the fact that the loan is payable in installments. Said charges shall be added to the principal of the loan and shall not be discounted or deducted therefrom or paid or received at the time the loan is made. For the purpose of computing charges for a fraction of a month, a day shall be considered one-thirtieth of a month.

(4) On loans of \$90 or less a licensee may charge, in lieu of charges specified in (1) of this section, not in excess of \$1 for each \$5 of cash or credit advanced to the borrower up to the amount of \$90. A period of at least 15 days must be allowed for the repayment of each \$5 cash or credit advanced. Such charges cannot be assessed by any subterfuge or device on any loan over \$90 or on any balance of \$90 or less when the original loan was greater than \$90.

(5) When any loan contract, new loan, renewal, or otherwise, is paid in full by cash 1 month or more before the final installment date, the licensee shall refund or credit the borrower with that portion of the total charges which shall be due the borrower as determined by schedules prepared under the rule of 78ths or sum of the digits

principle as follows: the amount of the refund or credit shall be as great a proportion of the total charges originally contracted for as the sum of the consecutive monthly balances of the contract scheduled to follow the date of prepayment bears to the sum of all the consecutive monthly balances of the contract, both sums to be determined according to the payment schedule originally contracted for.

(6) (a) If the contract so provides, the additional charge for any amount past due according to the original terms of the contract, whether by reason of default or extension agreement, may be 5% of the amount past due, and said amount may be charged once and no more.

~~(b) If two installments or parts thereof of a precomputed loan are in default for 10 days or more, a licensee may elect to convert the loan from a precomputed one to one in which charges are based on unpaid balances. In this event he shall make a rebate pursuant to the provisions of subsection (5) as if the date of prepayment were 1 day before the maturity date of the delinquent installment nearest to the conversion date, and thereafter may make charges at the single annual percentage rate that would earn the same charges as the graduated charges permitted by subsection (1) when the debt is paid according to the actuarial method.~~

(7) (a) The licensee may collect--from--the--borrower

~~include in the principal amount of any loan~~ the actual fees paid a public official or agency of the state for filing, recording, or releasing any instrument securing the loan.

~~(b) The licensee may include in the principal amount of any loan bona fide charges related to real estate security and paid to third parties, including:~~

~~(i) fees or premiums for title examination, title insurance, or similar purposes including survey;~~

~~(ii) fees for preparation of a deed, settlement statement, or other documents;~~

~~(iii) fees for notarizing deeds and other documents;~~

~~(iv) appraisal fees;~~

~~(v) fees for credit reports; and~~

~~(vi) fees paid to a trustee for release of a trust deed.~~

(8) No further or other charges shall be directly or indirectly contracted for or received by any licensee except those specifically authorized by this chapter. No licensee shall divide into separate parts any contract made for the purpose of or with the effect of obtaining charges in excess of those authorized by this chapter. All balances due to a licensee from any person as a borrower or as an endorser, guarantor, or surety for any borrower or otherwise or due from any husband or wife, jointly or severally, shall be considered a part of any loan being made by a licensee.

such person for the purpose of computing interest or charges. If any amount in excess of the charges permitted by this chapter is charged, contracted for, or and received, except as the result of an accidental and bona fide error of computation, ~~the contract of loan shall be void and~~ the licensee shall have no right to collect or receive any ~~principal charges or recompense whatsoever.~~

(9) On any loan of money exceeding \$7,500 in principal amount, a licensee may not make charges as provided in subsections (1) and (2) but shall make charges in accordance with the provisions of this subsection through subsection (12).

(10) On any loan of money exceeding \$7,500 but not exceeding \$25,000 in principal amount, a licensee may contract and receive charges at a rate not in excess of ~~1 1/2%~~ 2% per month on the principal amount as follows:

(a) Charges shall be computed on unpaid balances of the principal amount outstanding from time to time for the actual time outstanding. Each payment shall be applied first to accumulated charges and the remainder of the payment applied to the unpaid principal balance, except that if the amount of the payment is insufficient to pay the accumulated charges, unpaid charges continue to accumulate to be paid from the proceeds of subsequent payments and are not added to the principal balance.

(b) Charges made under this subsection may not be payable in advance or compounded. However, if part or all of the consideration for a new loan contract is the unpaid principal balance of a prior loan, the principal amount payable under such new loan contract may include any unpaid charges which have accrued. The resulting loan contract is a new and separate loan transaction for all purposes. The principal balance of a prior loan on which charges have been made pursuant to subsections (1) and (2) is the balance due after refund or credit is given to the borrower pursuant to subsection (5).

(11) For purposes of computing charges for a fraction of a month, a day is considered one-thirtieth of a month.

(12) The provisions of subsections (5) and (6) do not apply to loans made under subsections (9) through (11).

~~(13) The amounts of \$90, \$500, \$1,000, \$7,500, and \$25,000 in subsections (1), (2), (4), (9), and (10) are subject to change pursuant to the provisions of [section 9] on adjustment of dollar amounts."~~

Section 5. Section 32-5-302, MCA, is amended to read:

"32-5-302. Installment payment -- contract period. (1) No licensee may enter into any contract of loan:

(a) of \$300 or less, exclusive of charges, under which the borrower agrees to make any scheduled repayment of principal more than 21 calendar months from the date of

1 making such contract;

2 (b) for more than \$300 to and including \$1,000,
3 exclusive of charges, under which the borrower agrees to
4 make any scheduled repayment of principal more than 25
5 calendar months from the date of making; or

6 (c) for more than \$1,000 to and including ~~\$2,000~~
7 ~~\$2,500~~, exclusive of charges, under which the borrower
8 agrees to make any scheduled repayment of principal more
9 than 37 calendar months from the date of making; or

10 ~~(d) for more than \$2,000 to and including \$2,500~~
11 ~~exclusive of charges, under which the borrower agrees to~~
12 ~~make any scheduled repayment of principal more than 37~~
13 ~~calendar months from the date of making.~~

14 (2) Every loan contract shall require payment of
15 principal and charges in installments which shall be payable
16 at approximately equal periodic intervals, except that
17 payment dates may be omitted to accommodate borrowers with
18 seasonal incomes. No installment contracted for may be
19 substantially larger than any preceding installment. When a
20 loan contract provides for monthly installments, the first
21 installment may be payable at any time within 45 days of the
22 date of the loan and the charges for the number of days in
23 excess of 30 from the date of making may be added to the
24 scheduled amount of the installments.

25 (3) The amounts of \$300, \$1,000, and \$2,500 in

1 subsection (1) are subject to change pursuant to the
2 provisions of [section 9] on adjustment of dollar amounts."

3 Section 6. Section 32-5-303, MCA, is amended to read:

4 "32-5-303. Borrower to receive copy of contract or
5 statement of contents. At the time the loan is made, there
6 will be delivered to the borrower, or if there be two or
7 more borrowers to one of them, either the disclosures
8 required by the Federal Consumer Credit Protection Act, a
9 copy of the loan contract, or a written statement in the
10 English language showing in clear and distinct terms:

11 (1) the name and address of the lender and of one of
12 the borrowers or a maker of the loan;

13 (2) the date of the loan contract;

14 (3) the schedule of installments or description
15 thereof;

16 (4) the principal amount of the loan excluding
17 charges;

18 (5) the rate or amount of charges as the contract may
19 provide;

20 (6) the amount collected or paid out for each kind of
21 insurance, if any;

22 (7) the amount collected or paid out for filing and
23 other fees as allowed in 32-5-301(7);

24 (8) the collateral or security for the loan including
25 all other accommodation or other joint makers (comakers);

1 (9) that the borrower may prepay the loan in whole or
2 in part at any time during a licensee's regular business
3 hours and, in case the charges have been added to the
4 principal of the loan, that such charges are subject to the
5 refund requirements of 32-5-301(5) if such loan is prepaid
6 in full."

7 Section 7. Section 32-5-306, MCA, is amended to read:

8 "32-5-306. Insurance. (1) No insurance of any kind
9 shall be written by a licensee or employee, affiliate, or
10 associate of the licensee, in connection with any loan
11 except as hereinafter provided.

12 (2) Insurance permitted under the provisions of this
13 section shall be obtained through an insurance company
14 authorized to conduct such business in Montana by a duly
15 licensed agent or agency of this state. Premiums shall not
16 exceed those fixed by law or current applicable manual
17 rates. Insurance written as authorized by this section may
18 contain a mortgagee clause or other appropriate provisions
19 to protect the insurable interest of the licensee.

20 (3) When the principal amount of the loan exceeds \$300
21 exclusive of the portion thereof attributable to insurance
22 premiums and charges, the licensee may require a borrower to
23 insure property offered as security against any substantial
24 risk of loss, damage, or destruction for an amount not to
25 exceed the reasonable value of the property insured or the

1 amount of the loan, whichever is smaller, and for the
2 customary term approximating the term of the loan contract.
3 It shall be optional with the borrower to obtain such
4 insurance in an amount greater than the amount of the loan
5 or for a longer term.

6 (4) Subject to the laws of this state, credit life
7 insurance and credit disability insurance may be provided at
8 the expense of the borrower and may be provided by a
9 licensee upon the request of the borrower when the principal
10 amount of the loan exceeds \$300, exclusive of the portion
11 thereof attributable to insurance premiums and charges. If
12 any loan shall include amounts advanced for insurance
13 premiums and charges, such loan shall not in any event
14 exceed \$25,000.

15 (5) The insurance authorized by this section may be
16 sold, obtained, or provided by or through a licensee, and
17 the premium or identifiable charge for the insurance may be
18 included in the principal amount of the loan; provided,
19 however, that no licensee shall require a borrower to
20 purchase such insurance from such licensee or from any
21 particular agent, broker, or insurance company as a
22 condition precedent for the obtaining of a loan. Any gain or
23 advantage to the licensee or any employee, affiliate, or
24 associate of the licensee from the sale, provision, or
25 obtaining of insurance as authorized by this section shall

1 not be deemed to be additional charges or a violation of
2 this chapter.

3 (6) A licensee shall not require insurance under this
4 section until any existing insurance of the same type has
5 expired or has been canceled and the unearned portion of the
6 premium for the canceled insurance has been rebated to the
7 borrower.

8 ~~(7) The amounts of \$300 and \$25,000 in subsection (3)~~
9 ~~and (4) are subject to change pursuant to [section 9] on~~
10 ~~adjustment of dollar amounts."~~

11 Section 8. Section 32-5-402, MCA, is amended to read:
12 "32-5-402. Investigations. ~~(1)~~ The department may at
13 any time investigate any transaction with borrowers and may
14 examine the books, accounts, and records in this state to
15 discover violations of this chapter by:

16 ~~(1)(a)~~ a licensee;

17 ~~(2)(b)~~ a person who advertises for, solicits, or holds
18 himself out as willing to make loans in amounts of \$25,000
19 or less; or

20 ~~(3)(c)~~ a person whom the department has reason to
21 believe is violating or is about to violate this chapter.

22 ~~(2) The amount of \$25,000 in subsection (1) is subject~~
23 ~~to change pursuant to the provisions of [section 9] on~~
24 ~~adjustment of dollar amounts."~~

25 NEW SECTION. Section 9. Adjustment of dollar amounts.

1 (1) From time to time the dollar amounts in [this act]
2 designated as subject to change shall change, as provided in
3 this section, according to and to the extent of changes in
4 the Consumer Price Index for Urban Wage Earners and Clerical
5 Workers: U.S. City Average, All Items, 1967 = 100, compiled
6 by the bureau of labor statistics, department of labor, and
7 hereafter referred to as the index. The index for December,
8 1980, shall be the reference base index.

9 (2) The designated dollar amounts shall change on July
10 1 of each even-numbered year if the percentage of change,
11 calculated to the nearest whole percentage point, between
12 the index at the end of the preceding year and the reference
13 base index is 10% or more, but:

14 (a) the portion of the percentage change in the index
15 in excess of a multiple of 10% shall be disregarded and the
16 dollar amounts shall change only in multiples of 10% of the
17 amounts appearing in [this act] on [the effective date of
18 this act];

19 (b) the dollar amounts shall not change if the amounts
20 required by this section are those currently in effect
21 pursuant to [this act] as a result of earlier application of
22 this section; and

23 (c) the dollar amounts may not be reduced below the
24 amounts appearing in [this act] on [the effective date of
25 this act].

(3) If the index is revised, the percentage of change pursuant to this section shall be calculated on the basis of the revised index. If a revision of the index changes the reference base index, a revised reference base index shall be determined by multiplying the reference base index then applicable by the rebasing factor furnished by the United States bureau of labor statistics. If the index is superseded, the index referred to in this section shall be the one represented by the bureau of labor statistics as reflecting most accurately changes in the purchasing power of the dollar for consumers.

(4) The department shall adopt a rule announcing:

(a) on or before April 30 of each year in which dollar amounts are to change, the changes in dollar amounts required by subsection (2); and

(b) promptly after the changes occur, changes in the index required by subsection (3) including, if applicable, the numerical equivalent of the reference base index under a revised reference base index and the designation or title of any index superseding the index.

(5) A person does not violate [this act] with respect to a transaction otherwise complying with [this act] if he relies on dollar amounts either determined according to subsection (2) or appearing in the last rule of the department announcing the then current dollar amounts.

NEW SECTION. Section 10. Attorney fees. If the contract so provides, reasonable attorney fees may be awarded to the party in whose favor final judgment is rendered in any action on a contract entered into pursuant to the provisions of this chapter.

Section 11. Codification instruction. Sections 9 and 10 are intended to be codified as an integral part of Title 32, chapter 5, and the provisions of Title 32, chapter 5, apply to sections 9 and 10.

-End-

HB 321

MEMBERS
of the
HOUSE BUSINESS AND INDUSTRY COMMITTEE

47TH LEGISLATIVE SESSION, 1981

ANDREASON, Aaron
BERGENE, Toni
ELLERD, Bob
ELLISON, Orval
FABREGA, Jay, Chairman
HARPER, Hal
JACOBSEN, Glenn
JENSEN, Ray, Vice Chairman
KESSLER, Gerald
KITSELMAN, Les
MANNING, Richard
METCALF, Jerry
MEYER, Darryl
O'HARA, David
PAVLOVICH, Bob
ROWINS, Ken
SCHULTZ, Jim
VINCENT, John
WALLIN, Norm

VERDON, Paul, Researcher
LAHTI, Josephine, Secretary

HOUSE BUSINESS AND INDUSTRY COMMITTEE

#15 #16 #17 #18 #19 Date, 7 23 24 25 26 27 28

[illegible]

BUSINESS AND INDUSTRY COMMITTEE

47th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 283	Revising the membership & setting forth the powers and duties of the classification & rating committee for workers' compensation insurance; amend...; and repeal 33-16-1006	1/16	Fabrega Hager	1/30	DO PASS	2/12/81
HB 285	To amend the Uniform Common Trust Act; defining affiliated banks or trust companies; providing exclusions; amend...	1/16	Fabrega Goodover Lee	1/29	DO PASS	1/30
HB 286	To provide a state-chartered building & loan association the same rights as a federally-chartered savings & loan assoc.	1/16	Fabrega	1/29	DO PASS AS AMENDED	2/3
HB 310	To subject community antenna systems, commonly referred to as cable TV, to the supervision, regulation, and control of the PSC; amend 69-3-101.	1/17	Menahan Steve Brown Daily	1/28	DO NOT PASS	1/30
HB 318 F.N.	Amend 69-3-302 to prohibit utility rate increases during a budget period of a state or local government agency or school district without advance notice.	1/19	Vincent	2/5	TABLED 2/18 RETABLED 2/21	
HB 321	Revise MT consumer loan act by providing for the adjustment of certain dollar amts. in the act in accordance w/changes in consumer price index; increasing certain charges;					

BUSINESS AND INDUSTRY COMMITTEE

47th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 321 (Cont.)	including certain fees to be paid to third parties in the principal amount of the loan; providing for the utilization of the disclosures required by the federal consumer credit protection act; and providing for attorney fees in legal actions; amend.....	1/19	Fabrega Goodover Meyer Menahan	2/4	DO PASS AS AMENDED	2/5
HB 339 F.N.	To allow the state or a municipality to exercise the power of eminent domain to take any workplace which closes and which employed 250 or more persons during the last 5 yrs. amend...; providing immediate effective date.	1/19	Daily Pavlovich Quilici (Others)	2/5	DO NOT PASS (AMENDED)	2/9
HB 340 F.N.	To abolish board of milk control & eliminate its functions; amend; repeal.....; providing an effective date; providing that the proposed act be submitted to the electors of the state of MT.	1/19	Hannah Vincent Winslow (Others)	2/6	DO NOT PASS	2/9
HB 346	To provide for continued electrical power operations by irrigation districts; provide immediate effective date.	1/19	Jensen Turnage	2/3	DO PASS	2/3
HB 349	To create the Montana product liability act; establishing a statute of limitations; granting limited immunity to mfrs. or sellers of products resulting			2/3	TABLED AS AMENDED 2/19	

HOUSE BUSINESS AND INDUSTRY COMMITTEE

February 4, 1981

SUMMARIES FOR

HOUSE BILL 262 -

Introduced by Rep. Smith, amends the Territorial Integrity Act to allow an electric supplier to furnish electricity to his own premises used for his business.

HOUSE BILL 321 -

Introduced by Rep. Fabrega and others, amends the Montana Consumer Loan Act to adjust dollar amounts in accordance with fluctuations of the consumer price index. "Consumer type loan business" in present statute is one which makes loans of \$25,000 or less but the bill provides this ceiling may be changed on July 1 of even-numbered years if the consumer price index has changed by 10% or more and the dollar amounts shall be changed in multiples of 10%, but the dollar amounts may not be those reduced below those appearing in this act on its effective date. The bill, in effect, inserts an automatic inflation escalator in the Consumer Loan Act.

HOUSE BILL 409 -

Introduced by Rep. Keyser and others, creates the "Motion Picture Fair Trade Practices Act". The bill prohibits blind bidding, license agreements that require minimum payment guarantees, and minimum ticket prices. The bill also requires notice of trade screening and prohibits advance payments.

HOUSE JOINT RESOLUTION 4 -

Introduced by Rep. Moore, directs that within 60 days the Department of Revenue initiate changes in administrative rules to reduce paperwork connected with sale of untaxed cigarettes by a wholesaler.

2/4/81
Page 12

facilities in, then it would take a duplication of equipment. Could maybe have a small division. Seems to be opening a kettle of worms here and this could be happening all over.

Rep. Harper - What is the cost of a KW hour? Mr. Hanson - There is very little difference.

Rep. Carl Smith closed, asking Mr. Jardin to close for him, but this was denied.

Rep. Jensen took over the chairmanship of the meeting.

HOUSE BILL 321 -

Rep. W. JAY FABREGA, House District #44, Great Falls, chief sponsor, said HB 321 is an act that controls the operations of the finance companies. The Montana Consumers Loan Act will be amended to increase the base rates.

JERRY LOENDORF, Montana Consumer Finance Association, Helena, said they serve approximately one out of four families in the U.S. because they will generally take higher risks. The loans they make are generally small and high cost. They are very heavily regulated at the federal and state levels. HB 321 does a number of things.

Current law limits the amount a consumer finance can loan to anyone. In 1975 and 1979 they asked for increases which were granted to bring this loan ceiling up to \$25000. With inflation, periodically and continually they will have to come back and ask for increases in loan ceilings. In order to avoid that problem they would like to have the loan ceiling be tied to the Consumer Price Index. The purchasing power would not be affected, it would remain the same. \$25000 purchasing power of today would still be \$25,000 of purchasing power in the future. That would work by allowing the Department of Business Regulation to set the rate. This is being done in other places.

Page 5, line 11 (a) currently the rates allowed to be charged on loans up to \$300 is \$20; that rate break would be increased to \$500. The current rate is \$16 for loans up to \$300 and not over \$500, and this is changed to \$500 and \$1,000; and \$12 per hundred would be charged on loans of \$1,000 up to \$7,500. If you borrowed money from a consumer loan company, you would have a rate increase of \$8.00. This can be justified because these rate break points were established in 1969 and haven't been changed since then, and as cost of operation has gone up, income has remained the same. There is one company that does not loan below \$15,000,000. He opposes only the \$25,000 loan limit. If you loan that amount to one person, it takes much less work. Costs increase 10 times at \$25000 loans. Some adjustment can be justified.

Inflation will continue and so he proposed that those break points be also tied to the Consumer Price Index so they would be allowed to increase gradually so the result would be that income would remain constant with the

with the increase in cost of operations and so they wouldn't have to come back and request changes.

Loans of \$7,500 - \$25,000 are really the small loans that are rated up to \$7,500 and charges are all based in dollar amounts. Loans over \$7,500 are required by law to be made on an interest basis and so would increase them to 2% making the interest cost from 18% to 24% per year. In addition to the cost of operation, the cost of money has changed. Consumer loan companies obtain their funds from banks and the bank prime rates are 19-1/2% right now. He is not proposing a particular increase, but is thinking about it for the future also. The increase would go into effect in October. In two years the prime rates have just about doubled from the high rate in 1978 to the high rate in 1980. The market has been very volatile.

Page 7 provides for add-on loans changing a dollar amount for a loan. On a \$100 loan and plan to pay \$60 for a year and kept the money for two years - if I take that type of loan and I have two defaults in a row for 10 days, then the finance company can change the charge from an add-on charge to a percent. So the person who doesn't pay on time would have to pay the amount as those that do pay.

Cost of closing accounts - title, insurance premiums, attorney fees for deeds, etc. - asking to change closing costs so they will be changed from third parties right now. This would simply close that up. It allows the person who is administering an account to arrange for disbursement of certain amounts. Third party expenses can be added to the principal amount.

There is a change in the penalty - if a mistake is made in the charges through other than a bona fide mistake, all of those would have been void under \$1,000 in 1959. So losing charges but not the principal would not be such a big penalty, but today if you misstated an 8 instead of a 5, that loan is void, and you could lose the entire principal loan. It gives a benefit to the borrower to which they are not really entitled. This will have made an interest-free loan wherein you couldn't collect interest, but you could collect the principal.

Page 12 the borrower is covered by the Truth in Lending protection act. It requires disclosure of exactly what the loan requires the borrower to do.

New provisions on page 18 provide that in event of litigation, the prevailing party would be entitled to recover attorney's fees. It is questionable under the current law as to whether a company can include that provision in their contract. If someone brings a lawsuit and they lose, they have to pay attorney's fees to the winning party.

OPPONENTS: None

QUESTIONS -

Rep. Harper - Are there any special places to look at in this bill?
Mr. Alke - escalating provisions are appropriate. He sees no problems in this area.

2/4/81
Page 14

Rep. Metcalf - If a person has a loan at an interest rate already contracted and the interest rate backs up, it would not be affected? Mr. Loendorf - Yes.

Rep. Schultz - Why drop the penalty? Mr. Loendorf - They still lose the charges, except for accidental errors in computation. Rep. Schultz - Would banks have the same costs in servicing their loans? Have their costs gone up? Mr. Loendorf - Yes.

Rep. Pavlovich - Are recording fees basically always the same price? Mr. Loendorf - Yes, \$2 per page. It is not something the consumer loan companies charge, but they would disburse the amount and be sure it is recorded. They take so much for recording fees and you get the balance or else you pay it front end.

Rep. Pavlovich - You have to comply with the truth in lending laws? Mr. Loendorf - If you comply with the federal truth in lending, that constitutes Montana law as far as Montana law is concerned, so when you have complied with that, you have complied with Montana law. This act precludes the Federal Disclosure Act, and if you don't do what is required, you lose the principal and the interest.

Rep. Meyer - Loss after a 10-day period default - what do you mean there? Mr. Loendorf - If you loaned \$100 and charged \$20 and if that money is not paid back and they keep it for two years, it would have to be converted to an add-on loan at an interest figure. It would require payment of \$20 for each year if it were held longer.

Rep. Fabrega felt no need to close.

HOUSE JOINT RESOLUTION 4 -

This resolution will be rescheduled at the request of Rep. Meyer, sponsor of the bill.

Meeting adjourned at 11:45 a.m.

Rep. W. Jay Fabrega
REP. W. JAY FABREGA, CHAIRMAN

Josephine Lahti
Josephine Lahti, Secretary

VISITORS' REGISTER

HOUSE _____

COMMITTEE _____

Date _____

SOR _____

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
Anderson	Dillon, Mont.	Vigilante Elec. Co-op	✓	
Loeche	Helena, Mt.	Mt. Cascade Fire Co. Assn.	321	
Warner	Bozeman, MT	My Self	409	
Hines	Kalispell, MT	My Self	409	
Albe	Helena	Mont-Dale V.H.L.		✓ 262
Pickrell	Polson	myself	409	
Terrey	Glacier	myself	409	
Land Sager	Wolf Point	"	409	
Pickrell	Polson	Myself	409	
Don Campbell	Leicester	Elta Theatres	409 ✓	
Kipatuck	Laurel	Movin House	409	
Oblander	Great Falls	Crisch Theatre	409	
Jensen	Superior MT	Strand Theatre	409	
Jensen	Superior MT	Strand Theatre	409	
Jensen	Thompson, Fall	Rev. Theatre	409	
Manning	Hydrom		409	
McKills	Helena	T.O.T.	409 ✓	
Joyce Brooks	HELENA	MAU	262 X	
Glenn	Shelby	Interstate	409	
Glenn	Shelby	Interstate	409	
McCormick	Missoula	Commonwealth	409	
Bob Sean	Missoula	Simons	409	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Rep. Ellison - Are you aware the co-ops are going to own part of the output from Colstrip, as are a lot of companies who are involved in this?

Rep. Ellerd - This is a pride situation. He doesn't think it is a dollar issue as much as it is a principle.

Rep. Schultz - Supports Montana Power for building their own homes. In the days when Montana Power went two miles from homes, they couldn't get any power to their homes.

Rep. Metcalf - He is concerned with looking down the line to future developments across Montana where rural electric co-ops were serving them well when MPC wouldn't service those areas. Without some protection for REAs, the big companies are going to come in and build houses, and if given the authority, they will service those areas and take away from the services of REAs. We need to protect the territorial integrity of the REAs.

Rep. Robbins - Sees no real big problem with that if they are used for only their own plants. Homes are not a part of the plant.

Rep. Ellison made a motion to reconsider previous action and to just keep HB 339 in committee. Motion carried 9-8.

Rep. Vincent moved that HOUSE BILL 262 BE TABLED. This motion carried 16-2. Reps. Ellerd and Pavlovich voted No.

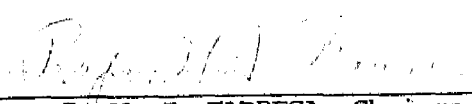
HOUSE BILL 360 - Rep. Metcalf moved HOUSE BILL 360 DO PASS. Rep. Harper moved to amend page 3, following line 19, lines 20 and 21 be reinserted. Motion was unanimously adopted.

Rep. Harper further moved to amend on page 1, line 6 following "beer" insert "table". Motion unanimously approved.

Rep. Metcalf reworded his motion to HOUSE BILL 360 DO PASS AS AMENDED. Motion carried 15-3 with Reps. Ellerd, Harper and Pavlovich voting No.

HOUSE BILL 321 - Rep. Wallin moved HOUSE BILL 321 DO PASS. He further moved to amend on page 7, lines 13-24, all language on those lines to be stricken. Motion was unanimously adopted. As a cleanup amendment, page 7 (a) was stricken following "6". After a lengthy discussion and explanation of the various parts of HB 321, Rep. Wallin reworded his motion that HOUSE BILL 321 DO PASS AS AMENDED, and the motion was unanimously adopted.

Meeting adjourned at 11:50 a.m.


REP. W. J. FABREGA, Chairman


Josephine Lahti, Secretary

COMMITTEE ON BUSINESS AND INDUSTRY

MONTANA STATE SENATE

1981

CHET BLAYLOCK

PAUL BOYLAN

HAROLD DOVER

ALLEN KOLSTAD

GARY LEE

PAT REGAN

PAT GOODOVER

Vice Chairman

FRANK HAZELBAKER

Chairman

MINNA MILLER

Secretary
January to February 20

MARY ELLEN CONNELLY

Secretary
February 20 to end of session

FORTY-SEVENTH LEGISLATIVE SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

HOUSE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
321	2/13	3/13	3/14				3/14		
346	2/10	3/11	3/11				3/11		
STATEMENT OF INTENT HB 346			3/11				3/11		
350	2/10	3/9	3/9					3/9	
360	2/13	3/11	3/11				3/11		
376	3/4	3/18	3/21 Tabled						
377	3/4	3/18	3/20				3/20		
378	3/2	3/18	3/20				3/20		
380	3/2	3/18	3/20				3/20		
385	3/5	3/20	3/21					3/21	
396	2/13	3/9	3/9				3/9		
409	3/2	3/12	3/14				3/14		
425	3/2	3/20	3/21				3/21		
430	3/2		3/4	MOVED TO LABOR COMMITTEE					
448	3/3	3/18	3/26					3/26	
450	2/19	3/9	3/4	MOVED TO AGRICULTURE COMMITTEE					

Use a separate sheet for Senate, House Bills, and Resolutions.

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 14, 1981

An executive meeting was held on Saturday, March 14, in room 404 of the Capitol Building at 12:20 p.m. The meeting was called to order by Chairman Hazelbaker with all members present.

HOUSE BILLS 238, 239, 321, 409, and 510 were scheduled for action.

SENATOR DOVER moved House Bill 238 "do pass as amended". The motion carried with Senators Regan and Boylan voting no. Senator Goodover will carry.

SENATOR DOVER moved House Bill No. 239 "do pass as amended". The motion carried with the vote unanimous. Senator Goodover will carry.

HOUSE BILL NO. 409: Proposed amendments were offered and explained by Senator Lee. Senator Regan commented that it should be either rental or percentage, but not both. Discussion followed.

SENATOR DOVER moved the proposed amendment No. 1.

Page 4, lines 21 through 24
Strike: Section 8 in its entirety.

The motion failed on a tie vote of 4 to 4.

SENATOR LEE moved to amend.

Page 3, lines 7 through 12.
Strike: All of section 5
Insert: "Section 5. A distributor may not require that a motion picture license agreement contain both a payment based on attendance or the box office receipts and a guarantee of a minimum payment to the distributor. However, an exhibitor may offer to license a film on a basis including both a minimum payment guarantee and a percentage of the box office receipts and, in such cases, the license agreement may contain such terms."

The motion failed on a tie vote of 4 to 4.

SENATOR LEE moved the second page of proposed amendments. Attached. The motion failed on a tie vote of 4 to 4. Senator Boylan moved House Bill No. 409 be concurred in. The motion carried with Senator Lee voting no. Senator Regan will carry.

HOUSE BILL NO. 510: Senator Lee presented proposed amendments to the committee and moved to amend.

Page 1, line 22.
Following: "bond"
Insert: "with 2 or more sureties acceptable to the governmental body letting the contract, or"

BUSINESS AND INDUSTRY

March 14, 1981

Page 2

Discussion followed about what is covered by a surety bond. The motion failed on a tie vote of 4 to 4.

SENATOR DOVER moved be concurred in. The motion carried with the vote unanimous. Senator Dover will carry.

HOUSE BILL NO. 321: SENATOR GOODOVER moved the proposed Statement of Intent.

STATEMENT OF INTENT: A statement of intent is required for this bill because it requires the department of business regulation to adopt a rule by April 30 of each even numbered year, reflecting adjustment of designated dollar amounts according to fluctuations in the consumer price index.

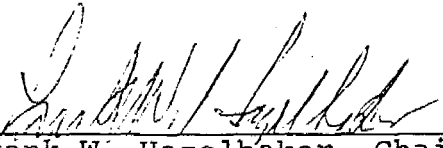
The legislature intends that the amounts be computed as required in [section 9]. The department may adopt a rule for revision of the reference base index in the event that the consumer price index is revised as provided in subsection (3) of [section 9].

The motion carried with the vote unanimous. Senator Goodover moved that House Bill No. 321 be concurred in. Senator Regan offered two amendments on page 6, subsection 4, lines 12 through 19 and on page 10, line 16 to strike "90". After some discussion the motion to amend failed on a tie vote of 4 to 4.

SENATOR REGAN moved to amend page 9 by reinserting the language on lines 5 to 7, which is now existing law. Discussion about the law as it now exists. The amendments failed on a tie vote of 4 to 4.

The motion "be concurred in" carried with Senators Regan and Blaylock voting no. Senator Goodover will carry.

The meeting adjourned at 1:40 p.m.


Frank W. Hazelbaker, Chairman


Mary Ellen Connelly, Secretary

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date Sat March Bill No. 321 Time _____

amendment

NAME	YES	NO
Hazelbaker	☒	☒
Goodover		☒
Dover		☒
Kolstad		☒
Lee		☒
Blaylock	☒	
Boylan		☒
Regan	☒	

Secretary _____

Chairman _____

Motion: _____

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

March 12, 1981

MR. PRESIDENT:

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE Bill No. 321

Fabrega (Senator Goodover)

Respectfully report as follows: That HOUSE Bill No. 321

BE CONCURRED IN

~~XXXXXX~~

March 14,

19 81

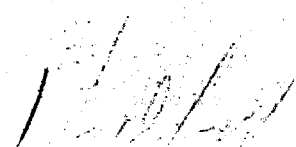
HOUSE BILL NO. 321

STATEMENT OF INTENT

A statement of intent is required for this bill because it requires the department of business regulation to adopt a rule by April 30 of each even numbered year, reflecting adjustment of designated dollar amounts according to fluctuations in the consumer price index.

The legislature intends that the amounts be computed as required in [section 9]. The department may adopt a rule for revision of the reference base index in the event that the consumer price index is revised as provided in subsection (3) of [section 9].

BE CONCURRED IN


Frank W. Hazelbaker,


Chairman.